IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 12506 of 1994

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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GANI MOHAMAD KAJODJI - Petitioner(s)
Versus
CIVIL SUPPLY OFFICER & 2 - Respondent(s)

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Appearance :
MR BA SURTI for Petitioner(s) : 1,
MS.NISHA M. PARIKH, ASSTT.GOVERNMENT PLEADER for Respondents

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 09/04/2007

ORAL JUDGMENT

1. Shri B.A. Surti, learned counsel for the petitioner; Ms. Nisha M. Parikh, learned AGP for

the respondents. Parties are finally heard.

2. Present is a petition challenging the orders passed by the District Civil Supplies Officer cancelling the license issued in favour of the petitioner, the order passed by the Collector in Appeal Case No. 33 of 1993 and the order passed by the State Government in Revision Application No. 83/93 confirming the orders passed by the District Civil Supplies Officer.

3. District Civil Supplies Officer cancelled the license issued in favour of the petitioner under the provisions of Gujarat Essential Articles [Licensing, Control and Stock Declaration] Order, 1981.

4. The short facts necessary for disposal of the present writ application are that on a raid conducted on 31.7.92, it was found that the petitioner was having stock of 2600 litres of kerosene and balance 800 litres was being transported illegally and the kerosene was being offloaded at a different place. On 5.8.92, Civil Supplies Officer suspended the effect of the license for a period of 90 days under Section

8[2] of the Gujarat Essential Commodities Act. The said order of suspension came to be challenged by the petitioner before the Collector in Revision Application No. 52/92, but however, the revision came to be dismissed on 29.9.92. It appears that immediately after the Collector had passed the order, the District Civil Supplies Officer issued a notice on 7.10.92 asking the petitioner to show cause as to why license be not cancelled. The petitioner appeared before the authority and submitted its reply and made a prayer that all the documents on which prosecution was placing its reliance be supplied to him to have appropriate and effective defence. It appears that the documents were not supplied and the District Civil Supplies Officer vide his order dated 6.4.93 in Case No. 313/92-93, after recording submissions made by the petitioner directed cancellation of the license [License No.30/81] and forfeited the amount of deposit of Rs. 750/-. The said order was confirmed by the Collector and the State Government, therefore, the petitioner is before

this Court.

5. Shri Surti, learned counsel for the petitioner submits that as the cancellation of license would lead to civil consequences and would also amount to a stigma on the honesty and integrity of the petitioner, the documents which were demanded by the petitioner, specially those, on which prosecution was placing its reliance ought to have been supplied to the petitioner for making an effective representation and defence.

6. He submits that non-supply of documents tantamounts to breach of principles of natural justice and denies an appropriate opportunity in favour of the petitioner.

7. Ms. Nisha M. Parikh, learned AGP for the respondent, on the other hand, submits that non-supply of documents would have no adverse effect on the merits of the orders and present was a case where the petitioner knew about everything, her submission is that the orders passed by the authorities are absolutely justified.

8. From the order passed by the District Civil Supplies Officer, it clearly appears that the

defence of the petitioner was that the notice was illegal, documents ought to have been supplied to him and there was no illegality committed by him. If the petitioner was demanding documents right from the beginning, then, a duty was cast upon the State and the officers to supply such documents so that the petitioner could effectively meet the allegations. The authorities have recorded that the documents demanded by the petitioner were not supplied, but they have not considered the effect of the same. In case like present, a person who faces danger of cancellation of license, if makes an application for leading oral and documentary evidence, then, ordinarily, unless there are special reasons to refuse, such opportunity should be given to him so that he can explain his conduct, lead his defence and meet the allegations.

9. The order passed by the District Civil Supplies Officer which has been confirmed by the Collector and the State Government in the opinion of this Court being violative of

principles of natural justice and as those decline proper opportunity in favour of the petitioner, deserve to and are accordingly quashed.

10. The petitioner or his representative shall appear before the District Civil Supplies Officer, Surat on 7th May, 2007 along with copy of this order enabling the said officer to know as to what he is required to do. After receiving the certified copy of this order, the District Civil Supplies Officer shall supply all the documents on which prosecution is placing reliance and would provide three weeks' opportunity to the petitioner to submit his defence cum reply. After giving due opportunity of hearing to the petitioner, the District Civil Supplies Officer shall re-decide the matter preferably within two months from the date of the submission of the reply by the petitioner. The petition is allowed to the extent indicated above. It is however made clear that if the petitioner or his representative does not appear on the aforesaid date before the District Civil

Supplies Officer or does not file his reply within time before the said authority, then, the said District Civil Supplies Officer shall be entitled to proceed exparte. Rule is made absolute to the aforesaid extent. No costs.

[R.S. GARG, J.]

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